IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 1937 OF 1984

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NATIONAL INSURANCE CO. & ANR. - Appellant(s)
Versus
BARIYA MOTIBHAI GAMBHIRBHAI & ANR. - Respondent(s)

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Appearance :
Ms. Maya Desai for Shri M.D. Pandya for Appellant(s) : 1 - 2.
None for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 11/07/2007

ORAL JUDGMENT

The present joint appeal has been filed by the owner and the Insurance Company.

2. In number of cases, following the judgement of the Supreme Court in the matter of ***H.S. Ahammed Hussain & Anr. vs. Irfan Ahammed & Anr.***, [***AIR 2002 SC 2483***], I have held that such joint appeal would not be maintainable and can be continued only after the name of the Insurance Company is deleted. I have also held that in a case like the present where the Insurance Company is jointly and severally held liable to pay the amount, the insured or the driver would have no cause to file the appeal, nor the insured or the driver can be allowed to fight for the Insurance Company. Even if I direct deletion of the name of appellant No.1, the appeal at the instance of the owner cannot be continued.

3. The appeal is, accordingly, dismissed. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

*kamlesh**